

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

EASTERN DIVISION

No. 05-10849RGS

HELEN RUNGE,

Plaintiff

v.

WALTER J. KELLY,
KERRY L. BLOOMINGDALE, M.D., and
SUNBRIDGE NURSING AND
REHABILITATION CENTER,

Defendants

**AFFIDAVIT OF MICHELE CARLUCCI, ESQ. IN SUPPORT OF
DEFENDANT WALTER J. KELLY'S OPPOSITION TO
PLAINTIFF'S MOTION FOR A PROTECTIVE ORDER**

I, Michele Carlucci, counsel for Defendant Walter Kelly, upon personal knowledge state:

1. On November 22, 2006, I sent eight (8) subpoenas to the Polk County Sheriff's

Office for service upon the following medical providers:

1. Robert M. Palmer, M.D., Tryon Medical Group, P.A., 25 Shields Drive, Tryon, NC 28782;
2. White Oak Manor (Benson Hall Assisted Living Facility), 70 Oak Street, Tryon, NC 28782;
3. White Oak Manor (Nursing Facility), 70 Oak Street, Tryon, NC;
4. LaurelWoods Assisted Living, 1062 & 1064 W. Mills Street, Columbus, NC 28722;
5. Dr. George Kim, 2536 Lynn Road, Suite B, Tryon, NC 28782;
6. Dr. Peter Nidenbach, Laurelllyn Medical Group, 37 Wilderness Road, Tryon, NC 28782;
7. St. Luke's Hospital, 101 Hospital Drive, Columbus, NC 28722; and

7. I have not received any objection to the subpoenas from the medical providers – the actual recipients of the subject eight (8) subpoenas.

8. On January 26, 2007, I received records in response to the subpoenas from St. Luke's Hospital. In an email, I informed Plaintiff's counsel of receipt of these records prior to Plaintiff's filing of this motion. [A true and accurate copy of the email is attached as Exhibit G].

9. In an effort to reach an amicable resolution of this discovery dispute, I reminded Plaintiff's counsel that the records sought through these subpoenas should have been provided pursuant to Rule 34 and in response to Defendants' Requests for Production of Documents. I requested releases from the Plaintiff to obtain these records, but Plaintiff's counsel refused.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 30TH DAY
OF JANUARY, 2007.

s/ Michele Carlucci
Michele Carlucci